

### **REMARKS**

This responds to the Final Office Action mailed July 17, 2007. Claims 17-25, 35-51, 66-197, and 199-200 have been canceled. Pending claims 1-16, 26-34, 52-65, and 198 have been rejected. Claims 1-3, 6, 9-12, 16, 26-28, 32-34, 52-61, 63-65, and 198 have been amended. Applicants respectfully request reconsideration of the application in view of the above amendments and the following remarks in support thereof.

#### **§103 Rejections of the Claims**

Pending claims 1-16, 26-34, 52-57, 61-75, and 198 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,029,045 to Picco et al. (hereinafter "Picco") in view of U.S. Patent Publication No. US 2005/0210502 to Flickinger et al. (hereinafter "Flickinger"). Further, claims 58-60 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Picco in view of Flickinger and U.S. Patent No. 6,480,885 to Olivier. As will be fully explained below, Picco and Flickinger do not teach the subject matter for which they are relied upon and; and further amended independent claims 1, 26, and 52, and all dependent claims, are not obvious over Picco and Flickinger.

Although the Applicants believe that the previous pending claims are defined over the art of record, the Applicants have amended independent claims 1, 26, and 52 to further clarify that, in part, "a programming signal that comprises, a portion of the plurality of background media objects to be presented at an instance in the program to the at least two user audiences (or at least two user profiles), and a portion of the plurality of targeted media objects to be presented at the instance in the program, the portion of the plurality of targeted media objects including a first media object to be targeted to a first user audience (or a first user profile) and a second media object to be targeted to a second user audience (or a second user profile)."

Flickinger discloses "various television programming channels include open ad (commercial) breaks designed specifically for the insertion of ads by the television service provider" (¶ 42). In Flickinger, an "STB 200 maintains multiple ads and executes a subscriber (viewer) determination algorithm for selecting which ad to retrieve based on predetermined criteria" (¶ 64). A profiler module "determine[s] which particular viewer in a subscriber

household is viewing the television in order to choose among the various ads” (§ 97). Once a particular viewer is identified, the “selected ads are then substituted or spliced into the programming being delivered” (§ 66).

In particular, Flickinger discloses an “information stream includes *particular time intervals* which are dedicated for insertion of such external data” (§ 41). Accordingly, the “subscriber will receive the designated ads in the *designated order* as avails [or intervals] occur in whatever programming he or she is viewing” (§ 45). Flickinger therefore discloses that an advertisement is “inserted into that avail [or interval] (i.e., substituted for the default ad)” at “particular time intervals” and in “designated order” (§ 41, 42 and 45). The advertisements are therefore received sequentially and multiple advertisements are not viewed together at the same time. In contrast, amended independent claims 1, 26, and 52 recite “background media objects to be presented at an instance in the program” and “target media objects to be presented at the [same] instance in the program.” Since advertisements are sequentially viewed in “particular time intervals” and in “designated order,” Flickinger does not teach and therefore does not suggest to one having ordinary skill in the art “background media objects to be presented at an instance in the program” and “target media objects to be presented at the instance in the program” where the targeted media objects “include[e] a first media object to be targeted to a first user audience (or a first user profile) and a second media object to be targeted to a second user audience (or a second user profile),” as recited in amended independent claims 1, 26, and 52.

Similarly, Picco discloses “that individualized local content specific to the user of the set-top box is inserted into the programming data stream” (Abstract). In particular, the “stored pieces of local content stored on the disk may then be inserted into the compressed digital data stream at appropriate times” (Col. 12, Lines 41-43). Picco also discloses a similar example where “a user may be looking to buy a new car, and may select the preferences that are set so that the set-up box for the user stores only local content (i.e., advertisements) about automobiles. Then, when a local content space within the compressed digital data stream is identified, an automobile advertisement is shown to the user” (Col. 12, Lines 34-40).

The contents disclosed in Picco are therefore inserted into a “local content stream within the compressed data stream” at “appropriate times” (Col. 12, Lines 41-43 and Col. 12, Lines 34-

40). Since advertisements, for example, are inserted and also shown sequentially “at appropriate times,” the advertisements are not and cannot be shown together at the same time. As such, Picco does not teach and therefore does not suggest to one having ordinary skill in the art a “background media objects to be presented at an instance in the program” and “target media objects to be presented at the [same] instance in the program,” as recited in amended independent claims 1, 26, and 52.

As Picco and Flickinger fail to teach every feature of the claimed invention, Applicants respectfully submit that amended independent claims 1, 26, and 52 are not obvious over Picco, Flickinger, and Olivier. Claims 2-16, 27-34, 53-65, and 198, each of which depends from one of independent claim 1, 26 or 52, are likewise patentable under 35 U.S.C. §103(a) for at least the same reasons set forth above regarding the applicable independent claims. Applicants therefore respectfully request the Examiner to withdraw the 35 U.S.C. §103(a) rejections of pending claims 1-16, 26-34, 52-57, 61-75, and 198.

Applicants respectfully submit that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicants' attorney at 408-278-4047 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to deposit account No. 19-0743.

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**CERTIFICATE UNDER 37 CFR 1.8:** The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 9 day of April 2008.

Name

Signature \_\_\_\_\_